

Department of Veterans Affairs

§ 21.270

(2) Even though VA pays the cost of room and board, the veteran will be paid that portion of subsistence allowance otherwise payable for dependents.

(Authority: 38 U.S.C. 3108(e))

(c) *Non-pay work experience or training in a Federal agency.* A veteran in an on-job program or being provided work experience in a Federal agency at no or nominal pay shall receive subsistence allowance at the institutional rate.

(Authority: 38 U.S.C. 3108(c))

(d) *Extended evaluation and independent living program.* A veteran in a program of extended evaluation or independent living service program shall be paid subsistence allowance for full or part-time participation at the rate specified for institutional training in § 21.260. If an extended evaluation or independent living program is pursued on a less than a quarter-time basis, as measured under § 21.310(d), VA will only pay established charges for services furnished.

(Authority: 38 U.S.C. 3108(h))

(e) *On-job training.* A veteran in an on-job training program will be paid subsistence allowance at the rate provided under § 21.260(b), except that subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.

(Authority: 38 U.S.C. 3108(c))

§ 21.268 Employment adjustment allowance.

(a) *General.* A veteran who completes a period of rehabilitation and reaches the point of employability will be paid an employment adjustment allowance for a period of two months at the full-time subsistence allowance rate for the type of program the veteran was last pursuing. (See § 21.190(d))

(Authority: 38 U.S.C. 3108(a))

(b) *Reelection of subsistence allowance.* A veteran who has elected payment at the Chapter 30 educational assistance allowance rate may be paid an employment adjustment allowance only if he

or she reelects subsistence allowance to become effective no later than the day following completion of the period of rehabilitation to the point of employability.

(Authority: 38 U.S.C. 3108(f))

(c) *Special programs.* An employment adjustment allowance will be paid at the institutional rate of subsistence allowance for veterans in any of the following programs:

- (1) On-job training at no or nominal pay in a Federal agency;
- (2) Training in the home program;
- (3) Independent instructor program;
- (4) Cooperative program; or
- (5) Self-employment program.

(d) *Combination program.* A veteran who has pursued a combination program will be paid an employment adjustment allowance at the full-time rate for the type of training the veteran was actually pursuing at the completion of the period of rehabilitation to the point of employability.

(e) *Subsequent payments of employment adjustment allowance.* If a veteran has ever received an employment adjustment allowance following rehabilitation to the point of employability, he or she may, nevertheless, receive it again when completing an additional rehabilitation program to the point of employability if:

- (1) The prior determination of rehabilitation to the point of employability is set aside; and
- (2) The veteran is reinducted into a new vocational rehabilitation program as provided in § 21.282.

(f) *Employment adjustment allowance not charged against entitlement.* An employment adjustment allowance will not be charged against the veteran's basic entitlement.

(Authority: 38 U.S.C. 3108(a))

[49 FR 40814, Oct. 18, 1984, as amended at 54 FR 4284, Jan. 30, 1989; 57 FR 57108, Dec. 3, 1992]

§ 21.270 Payment of subsistence allowance during leave and between periods of instruction.

(a) *Payment during leave.* VA will pay an eligible veteran a subsistence allowance during any period of approved leave including a veteran:

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(1) Receiving medical or rehabilitation services on an outpatient basis at a VA medical center, and who provides his or her own room and board;

(2) Receiving service department retirement or retained pay while not on active duty;

(3) Hospitalized at a VA medical center while on approved leave. If the veteran becomes eligible for payment of disability compensation at the temporary 100 percent rate, under § 3.401(h) of this title due to hospitalization, payment will be made under provisions of § 21.266(a).

(Authority: 38 U.S.C. 3110)

(b) *Payment for intervals between periods of instruction.* Subsistence allowance will be paid to a veteran during the following periods unless the case manager and the veteran jointly determine that such payment is not in the veteran's interest:

(1) A period between consecutive terms within an enrollment period that does not exceed 1 full calendar month;

(2) A period between consecutive school terms, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in, and pursuing, the same objective at the second institution, provided the period does not exceed 30 days;

(3) A period which does not exceed 30 days, between a semester, term, or quarter, when the educational institution certifies the enrollment of the veteran on an individual semester, term, or quarter basis.

(c) *Payment for other periods.* Subsistence allowance will be paid for:

(1) Weekend and legal holidays, or customary vacation periods associated with them;

(2) Periods in which the school is closed temporarily under emergency conditions described in § 21.4138(f).

§ 21.272 Veteran-student services.

(a) *Eligibility.* Veterans who are pursuing a rehabilitation program under chapter 31 on a three-quarter or full-time basis are eligible to receive a work-study allowance.

(Authority: 38 U.S.C. 3104(a)(4), 3485)

(b) *Selection criteria.* Whenever feasible, VA will give priority to veterans with service-connected disabilities rated at 30 percent or more disabling in selection of recipients of this allowance. VA shall consider the following additional selection criteria:

(1) Need of the veteran to augment the subsistence allowance or payment made by the Chapter 30 rate;

(2) Motivation of the veteran; and

(3) Compatibility of the work assignment with the veteran's physical condition.

(Authority: 38 U.S.C. 3104(a)(4), 3108(f), 3485)

(c) *Utilization.* Veteran-student services may be utilized in connection with:

(1) VA outreach service program as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary VA papers and other documents at educational institutions, regional offices or other VA facilities;

(3) Hospital and domiciliary care and medical treatment at VA facilities; and

(4) Any other appropriate activity of VA.

(d) *Rate of payment.* (1) In return for the veterans' agreement to perform services for VA totaling 25 times the number of weeks contained in an enrollment period, VA will pay an allowance equal to the higher of:

(i) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times the number of hours the veteran has agreed to work; or

(ii) The hourly minimum wage under comparable law of the State in which the services are to be performed times the number of hours the veteran has agreed to work.

(2) VA will pay proportionately less to a veteran who agrees to perform a lesser number of hours of services.

(Authority: 38 U.S.C. 3104(a)(4), 3485)

(e) *Payment in advance.* VA will pay in advance an amount equal to 40 percent of the total amount payable under the contract (but not more than an amount equal to 50 times the applicable hourly minimum wage).

(Authority: 38 U.S.C. 3104(a)(4), 3485)